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**PATENT APPLICATION**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of

Takaaki HAYASHI

Group Art Unit: 2821

Application No.: 10/649,902

Examiner: T. Dinh

Filed: August 28, 2003

Docket No.: 116966

For: ELECTRONIC MODULE, METHODS OF MANUFACTURING AND DRIVING THE SAME, AND ELECTRONIC INSTRUMENT

**RESPONSE TO ELECTION OF SPECIES REQUIREMENT**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

In reply to the February 4, 2005 Election of Species Requirement, Applicant provisionally elects Species I, claims 1-13, with traverse.

Moreover, it is respectfully submitted that the Office Action is on its face unreasonable because the Office Action (1) equates claims with species and (2) fails to show that the species are mutually exclusive.

Species are always different embodiments and claims are never species (see MPEP §806.04(e)). However, in this case, the Office Action states that species I is directed to claims 1-13 and species II, is directed to claims 14-23. Because the Office Action improperly equates claims with species, withdrawal of the Election of Species Requirement is respectfully requested.

Moreover, the Office Action fails to put forth any reason as to why the claims of the alleged different species are mutually exclusive. The Office Action must show that at least one claim recites limitations which are found in a first species, but not in a second, while a second claim recites limitations for the second species and not the first (see MPEP

§806.04(f)). Because the Office Action fails to put forth any basis as to why the alleged species are mutually exclusive from each other, withdrawal of the Election of Species Requirement is respectfully requested.

It is also respectfully submitted that the subject matter of all species is sufficiently related that a thorough search for the subject matter of any one species would encompass a search for the subject matter of the remaining species. Thus, it is respectfully submitted that the search and examination of the entire application could be made without serious burden. See MPEP §803 in which it is stated that "if the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions" (emphasis added). It is respectfully submitted that this policy should apply in the present application in order to avoid unnecessary delay and expense to Applicant and duplicative examination by the Patent Office.

Thus, withdrawal of the Election of Species Requirement is respectfully requested.

Respectfully submitted,



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JAO:JLC/al

Date: February 3, 2005

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